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COMPLAINT AND DEMAND FOR JURY TRIAL

COMPLAINT

FRANCES O'KEEFE ("Plaintiff"), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against PREMIER BANKCARD, LLC ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant 28 U.S.C. § 1331 which grants this court original jurisdiction of all civil actions arising under the laws of the United States.

1 13. Plaintiff never gave Defendant permission to call her cellular
2 telephone.

3 14. Beginning in late March 2015, and continuing through December
4 2015, Defendant repeatedly called Plaintiff on her cellular telephone.

5 15. When calling Plaintiff, Defendant used an automatic telephone
6 dialing system and artificial or pre-recorded messages.

7 16. Defendant's calls were not made for emergency purposes.

8 17. When Plaintiff would pick up the phone, she would hear a
9 computerized voice saying, "This is Premier Bankcard calling."
10

11 18. Plaintiff knew it was Defendant calling because, on a few occasions,
12 she has spoken with male callers whom identified themselves as calling on behalf
13 of Defendant, and the automated messages she received expressly identified
14 Defendant as the caller.
15

16 19. In March 2015, and multiple times thereafter, Plaintiff advised
17 Defendant to stop calling her cellular telephone.
18

19 20. Defendant heard and acknowledged this request.
20

21 21. However, Defendant did not remove Plaintiff's cellular telephone
22 number from its database.

23 22. Rather, Defendant continued to call Plaintiff, sometimes numerous
24 times per day.
25

1 23. Defendant even called Plaintiff before 8 a.m. and after 9 p.m.

2 24. Since revoking any prior consent for Defendant to call her, Plaintiff
3 believes that she received at least 50 calls to her cellular telephone from
4 Defendant.
5

6 **DEFENDANT VIOLATED THE**
7 **TELEPHONE CONSUMER PROTECTION ACT**

8 **COUNT I**

9 35. Plaintiff incorporates the foregoing paragraphs as though the same
10 were set forth at length herein.

11 36. Defendant initiated multiple telephone calls to Plaintiff's cellular
12 telephone using an automatic or "predictive" dialing system.
13

14 37. The calls were made using an artificial or pre-recorded voice.

15 38. Defendant's calls to Plaintiff were not made for emergency purposes.

16 39. Plaintiff never gave Defendant express prior consent to place
17 automated or pre-recorded calls to her cellular telephone.
18

19 40. In March 2015, Plaintiff verbally revoked any prior consent she may
20 have given to Defendant to call her cellular telephone.

21 41. After Plaintiff revoked her consent, Defendant continued to place
22 automated, pre-recorded calls to Plaintiff's cellular telephone.
23
24
25

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, FRANCES O'KEEFE, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

Date: 06/22/2016

By: /s/ Amy L. Bennecoff Ginsburg
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